

Notice of Allowability

Application No.

09/646,561

Applicant(s)

SIM ET AL.

Examiner

Art Unit

Jessica H. Roark

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/17/03 and 11/17/03.
2. ☒ The allowed claim(s) is/are 40-47, 50-56 and 59-61 (renumbered 1-18).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>11172003</u> . |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

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DETAILED ACTION

1. Applicant's proposed amendment after final, filed 10/17/2003, has been entered.

Claims canceled: 1-39, 48-49 and 57-58.

Claims currently amended: 40-47, 51-56 and 59-61.

Claims pending: 40-47, 50-56 and 59-61.

Claims 40-47, 50-56 and 59-61 are under consideration in the instant application.

EXAMINER'S AMENDMENT

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

It is noted that Applicant's response filed 10/17/03 placed the application in condition for allowance based on the record at that time. The Examiner's Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicant's attention for the first time in the telephone interview of 11/17/03. Accordingly, no further extension of time is required to make the Examiner's Amendment which places the Application fully in condition for allowance

3. Authorization for this Examiner's Amendment was given in a telephone interview with Richard J. Stern on 11/17/03.

In the Specification:

4. In the ABSTRACT:

in the 1st line -- canine and feline -- has been added between the "to" and "B7" in the phrase "The present invention relates to B7 proteins" so that the phrase reads "The present invention relates to canine and feline B7 proteins".

5. In the amendment filed 9/3/02 which inserted the related application information in the first line of the specification, -- , now abandoned -- has been inserted following "filed April 17, 1998".

In the Claims:

6. In claim 45, a period has been inserted at the end of the claim.

7. In claim 51, -- ; and recovering said canine or feline B7-2 protein -- has been inserted between the last word of claim 51 and the period.

8. In claim 55, section (a) has been amended by inserting -- from (a), (b) or (c) -- following "molecule" and before "of Claim 41".

9. In claim 56 at the 4th and 6th lines, each occurrence of the word "and" has been changed to -- or --.

10. In claim 56, , -- ; and recovering said canine or feline B7-2 protein -- has been inserted between the last word of claim 56 and the period.

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REASONS FOR ALLOWANCE

11. The following is an Examiner's Statement of Reasons for Allowance:

The Examiner's Amendment set forth supra, in conjunction with Applicant's amendment filed 10/17/03, has obviated the previous rejections of record.

Accordingly, the instant claims are deemed allowable.

12. Applicant's Petition under 37 CFR 1.48(a) to delete an Inventor, filed 9/22/03, is again acknowledged. The request to correct the inventorship of this nonprovisional application under 37 CFR 1.48(a) is deficient because: the Declaration submitted has non-initialed changes.

A new Declaration should be submitted to correct this deficiency.

Applicant is reminded that the period for reply to a Notice of Allowability is three months, and that this three-month period is not extendable.

13. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Roark, whose telephone number is (703) 605-1209. The examiner can normally be reached Monday to Friday from 8:00 to 4:30. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached at (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 872-9306.

Jessica Roark, Ph.D.
Patent Examiner
Technology Center 1600
November 17, 2003

PHILLIP GAMBEL
PHILLIP GAMBEL, PH.D
PRIMARY EXAMINER
TEC 1600
11/17/03